

AMENDED IN ASSEMBLY JUNE 20, 2002

AMENDED IN ASSEMBLY JUNE 6, 2002

AMENDED IN SENATE MARCH 20, 2002

SENATE BILL

No. 1386

Introduced by Senator Peace

February 12, 2002

An act to amend, renumber, and add Section 1798.82 of, and to add Section 1798.29 to, the Civil Code, relating to personal information.

LEGISLATIVE COUNSEL'S DIGEST

SB 1386, as amended, Peace. Personal information: privacy.

Existing law regulates the maintenance and dissemination of personal information by state agencies, as defined, and requires each agency to keep an accurate account of disclosures made pursuant to specified provisions. Existing law also requires a business, as defined, to take all reasonable steps to destroy a customer's records that contain personal information when the business will no longer retain those records. Existing law provides civil remedies for violations of these provisions.

This bill would require state agencies and businesses that maintain computer data systems that contain personal information to disclose, as specified, any breach of the security of the systems, as defined, to any person whose personal information was, or ~~may~~ *is reasonably believed* to have been, accessed by an unauthorized person. This bill would also make a statement of legislative findings and declarations regarding privacy and financial security.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. (a) The privacy and financial security of
2 individuals is increasingly at risk due to the ever more widespread
3 collection of personal information by both the private and public
4 sector.

5 (b) Credit card transactions, magazine subscriptions, telephone
6 numbers, real estate records, automobile registrations, consumer
7 surveys, warranty registrations, credit reports, and Internet sites
8 are all sources of personal information and form the source
9 material for identity thieves.

10 (c) Identity theft is one of the fastest growing crimes committed
11 in California. Criminals who steal personal information such as
12 social security numbers use the information to open credit card
13 accounts, write bad checks, buy cars, and commit other financial
14 crimes with other people's identities. The Los Angeles County
15 Sheriff's Department reports that the 1,932 identity theft cases it
16 received in the year 2000 represented a 108 percent increase over
17 the previous year's caseload.

18 (d) Identity theft is costly; to the marketplace and to consumers.
19 The Secret Service estimated the cost of identity theft at seven
20 hundred forty-five million dollars (\$745,000,000) in the year
21 1997. According to a May 2000 survey by CalPIRG and the
22 Privacy Rights Clearinghouse, the average consumer victim
23 spends 175 hours and eight hundred dollars (\$800) resolving
24 identity theft problems. During this time, consumers often have
25 trouble establishing new credit, renting apartments, and finding
26 employment, since many applications require a credit check as
27 part of the approval process.

28 (e) According to the Attorney General, victims of identity theft
29 must act quickly to minimize the damage; therefore expeditious
30 notification of possible misuse of a person's personal information
31 is imperative.

32 SEC. 2. Section 1798.29 is added to the Civil Code, to read:

33 1798.29. (a) Any agency that maintains a computerized data
34 system that contains personal information shall disclose any
35 breach of the security of the system immediately, ~~or as soon as is~~
36 ~~practicable thereafter,~~ following discovery of the breach in the
37 security of the data to any person whose personal information was,
38 ~~or may have been, accessed by an unauthorized person. or is~~

1 *reasonably believed to have been, accessed by an unauthorized*
 2 *person. The notification required by this subdivision is not*
 3 *required if a law enforcement agency determines that the*
 4 *notification will impede a criminal investigation. The notification*
 5 *required by this section shall be made after the law enforcement*
 6 *agency determines that it would not compromise the investigation.*

7 (b) For purposes of this section, ~~“breach~~ “breach of the
 8 security of the ~~system~~ system” means unauthorized access to
 9 personal information contained in a database that could be used to
 10 violate Section 530.5 of the Penal Code, *except that the disclosure*
 11 *of the name, address, or telephone number, by itself, does not*
 12 *require the notification specified in this section.*

13 SEC. 3. Section 1798.82 of the Civil Code is amended and
 14 renumbered to read:

15 1798.83. (a) Any customer injured by a violation of this title
 16 may institute a civil action to recover damages.

17 (b) Any business that violates, proposes to violate, or has
 18 violated this title may be enjoined.

19 (c) The rights and remedies available under this section are
 20 cumulative to each other and to any other rights and remedies
 21 available under law.

22 SEC. 4. Section 1798.82 is added to the Civil Code, to read:

23 1798.82. (a) Any person or business that maintains a
 24 computerized data system that contains personal information shall
 25 disclose any breach of the security of the system immediately, ~~or~~
 26 ~~as soon as is practicable thereafter,~~ following discovery of the
 27 breach in the security of the data to any person whose personal
 28 ~~information was, or may have been, accessed by an unauthorized~~
 29 ~~person.~~ *information was, or is reasonably believed to have been,*
 30 *accessed by an unauthorized person. The notification required by*
 31 *this subdivision is not required if a law enforcement agency*
 32 *determines that the notification will impede a criminal*
 33 *investigation. The notification required by this section shall be*
 34 *made after the law enforcement agency determines that it would*
 35 *not compromise the investigation.*

36 (b) For purposes of this section, “breach of the security of the
 37 system” means unauthorized access to personal information
 38 contained in a database that could be used to violate Section 530.5
 39 of the Penal Code, *except that the disclosure of the name, address,*

- 1 *or telephone number, by itself, does not require the notification*
- 2 *specified in this section.*

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